

REMARKS:**Status of claims and amendments**

Claims 1, 3-5, and 7-9 are pending in the application. In the Office Action dated February 7, 2006, the Examiner rejected all pending claims under 35 U.S.C. 102(e) as being anticipated by Konishi et al. These rejections are respectfully traversed.

In this amendment, new claims 8 and 9 have been added to more clearly define the subject matter which Applicant regards as the invention. No new matter was added; see at least paragraph [0013] of the specification.

The 102(e) rejection under Konishi

Konishi discloses two oil reservoirs 122a and 122b which supply oil to a hydraulic valve mechanism 150, which, in turn, supplies oil to a high-pressure oil chamber 140 formed between the plunger-receiving hole (not numbered) and the plunger 110 (column 4, lines 19-23 and column 5, lines 3-7). FIG. 3, referred to by the Examiner as allegedly disclosing the cylinder (plunger 110 as cited by the Examiner) inside the reservoir tank (oil reservoir 122b) in fact shows the plunger receiving hole (not numbered, shown in dotted lines) behind oil reservoir 122b, as evidenced by the dotted lines. This relationship can be seen more clearly in FIG. 4, which clearly shows plunger-receiving hole (inside surface of 120 occupied by plunger 110) disposed some distance away from oil reservoirs 122a and 122b.

Konishi et al. thus does not disclose or suggest “said cylinder is accommodated inside said reservoir tank” (inventive claim 1) or “said cylinder is provided inside said reservoir tank” (inventive claim 5). Claims 1 and 5, as well as dependents thereon, including newly presented claims 8 and 9, are thus patentable over Konishi.

Request for withdrawal of finality of Office Action

Applicants respectfully submit that the finality of the Office Action is premature because the Office Action asserts new grounds of rejection that were not necessitated by amendment or otherwise attributable to Applicants (such as newly cited prior art submitted by Applicants in an information disclosure statement).

The Office Action dated August 23, 2005 rejected claims 1-9 under 35 U.S.C. §102(b) as being anticipated by Nakamura.

In Applicants' Response of November 17, 2005, claims 1 and 5 were amended to incorporate the subject matter of claims 2 and 6, respectively. Claims 2 and 6 were canceled. No further amendments were made. Claim 1, as amended, is thus substantially identical to original claim 2. Claim 5, as amended, is substantially identical to original claim 6.

The final Office Action of February 7, 2006 now rejects claims 1, 3-5, and 7-9 under 35 U.S.C. §102(e) as being anticipated by Konishi et al. This represents a new ground of rejection, as the Office Action notes on page 3 ("Applicants' arguments ... have been considered but are moot in view of the new ground(s) of rejection." (emphasis added)). However, claims 1 and 5 are substantially identical to originally presented claims 2 and 6, respectively. Claims 3, 4, and 7-9 were not amended. Accordingly, the new grounds of rejection could not have been necessitated by amendment.

Because the Office Action of February 7, 2006 asserts new grounds of rejection which were not necessitated by amendment or otherwise attributable to Applicants, it is respectfully requested that the finality of the Office Action be withdrawn. See MPEP 706.07(a), (c) and (d).

Conclusions

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance is respectfully requested.

Authorization is granted to charge any outstanding fees due at this time for the continued prosecution of this matter to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (matter no. 060945-0181).

Respectfully submitted,



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Jessica C. Stahnke (Reg. No. 57,570)
for Thomas D. Kohler (Reg. No. 32,797)
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105
415.442.1000

Date